

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

PART 721
MICHIGAN TRAILWAYS

324.72101 Definitions.

Sec. 72101. As used in this part:

- (a) "Advisory council" means the Michigan trailways advisory council created in section 72110.
- (b) "Council" means a Michigan trailway management council established pursuant to section 72106.
- (c) "Fund" means the Michigan trailways fund created in section 72109.
- (d) "Governmental agency" means the federal government, a county, city, village, or township, or a combination of any of these entities.
- (e) "Michigan trailway" means a trailway designated by the commission pursuant to section 72103.
- (f) "Rail-trail" means a former railroad bed that is in public ownership and used as a trailway.
- (g) "Trailway" means a land corridor that features a broad trail capable of accommodating a variety of public recreation uses.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 1997, Act 129, Imd. Eff. Nov. 5, 1997.

Popular name: Act 451

Popular name: NREPA

324.72102 Legislative findings and declaration.

Sec. 72102. The legislature finds and declares that a statewide system of trailways will provide for public enjoyment, health, and fitness; encourage constructive leisure-time activities; protect open space, cultural and historical resources, and habitat for wildlife and plants; enhance the local and state economies; link communities, parks, and natural resources; create opportunities for rural-urban exchange, agricultural education, and the marketing of farm products; and preserve corridors for possible future use for other public purposes. Therefore, the planning, acquisition, development, operation, and maintenance of Michigan trailways is in the best interest of the state and is declared to be a public purpose.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.72103 Designation as trailway; public hearing; establishing and changing permitted uses; revocation of designation.

Sec. 72103. (1) Upon petition by any person or on its own motion, the commission may designate a trailway in this state as a "Michigan trailway". The petition or motion shall propose permitted uses of the trailway. The commission shall not designate a trailway as a Michigan trailway unless it meets, or will meet when completed, all of the following requirements:

- (a) The land on which the trailway is located is owned by the state or a governmental agency, or otherwise is under the long-term control of the state or a governmental agency through a lease, easement, or other arrangement. If the land is owned by a governmental agency, the commission shall obtain the consent of the governmental agency before designating the land as part of a Michigan trailway.
- (b) The design and maintenance of the trailway and its related facilities meet generally accepted standards of public safety.
- (c) The trailway meets appropriate standards for its designated recreation uses.
- (d) The trailway is available for designated recreation uses on a nondiscriminatory basis.
- (e) The trailway is a multiuse trail suitable for use by pedestrians, by people with disabilities, and by other users, as appropriate.
- (f) The trailway is, or has potential to be, a segment of a statewide network of trailways, or it attracts a substantial share of its users from beyond the local area.
- (g) The trailway is marked with an official Michigan trailway sign and logo at major access points.
- (h) The trailway is not directly attached to a roadway, except at roadway crossings.
- (i) Where feasible, the trailway offers adequate support facilities for the public, including parking, sanitary facilities, and emergency telephones, that are accessible to people with disabilities and are at reasonable frequency along the trailway.
- (j) Potential negative impacts of trailway development on owners or residents of adjacent property are minimized through all of the following:

- (i) Adequate enforcement of railway rules and regulations.
- (ii) Continuation of access for railway crossings for agricultural and other purposes.
- (iii) Construction and maintenance of fencing, where necessary, by the owner or operator of the railway.
- (iv) Other means as considered appropriate by the commission.
- (k) Other conditions required by the commission.

(2) The commission shall not designate a railway a Michigan railway under subsection (1) unless a public hearing has been held in the vicinity of the proposed Michigan railway to take testimony and gather public opinion on the proposed designation including, but not limited to, the proposed uses of the railway and whether or not motorized uses are appropriate for the railway. The public hearing shall be held at a location and at a time calculated to attract a fair representation of opinions on the designation. A transcript or a summary of the testimony at the public hearing shall be forwarded to the commission.

(3) At the time a Michigan railway is designated under subsection (1), the commission shall, in consultation with the governmental agencies in which the railway is located, establish uses to be permitted on the railway. In establishing permitted uses, the commission shall consider all of the following:

- (a) The safety and enjoyment of railway users.
- (b) Impacts on residents, landowners, and businesses adjacent to the railway.
- (c) Applicable local ordinances.

(4) A change in the permitted uses of a Michigan railway established under subsection (3) relating to whether or not a motorized use is allowed on the railway shall not be made without approval of the commission after a public hearing held in the same manner as provided in subsection (2).

(5) The commission may revoke a Michigan railway designation if it determines that a railway fails to meet the requirements of this section. Before revoking a Michigan railway designation, the commission shall provide notice to all entities involved in the management of the railway. If the railway is brought into compliance with this section within 90 days after providing this notice, the commission shall not revoke the designation.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.72104 Designation as railway connector.

Sec. 72104. (1) Upon petition by any person or on its own motion, the commission may designate a railway, bicycle path, sidewalk, road, or other suitable route that does not meet the requirements of this part for a Michigan railway as a "Michigan railway connector" if the connector meets all of the following:

- (a) The connector meets appropriate safety standards and appropriate design standards for its designated uses.
- (b) The connector connects directly to a Michigan railway.
- (c) The public agency having jurisdiction over the connector has consented in writing to the designation.
- (d) The connector is marked with an official Michigan railway connector sign and logo at major access points.

(2) An aquatic corridor capable of accommodating watercraft that connects to a Michigan railway may be designated as a Michigan railway connector if it meets the requirements of subsection (1)(a) to (d).

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.72105 Operating and maintaining railway; agreement; provisions.

Sec. 72105. The department may operate and maintain a Michigan railway that is located on state owned land or may enter into an agreement with a council or 1 or more governmental agencies to provide for the operation and maintenance of the Michigan railway. An agreement entered into under this subsection may include provisions for any of the following:

- (a) Construction, maintenance, and operation of the railway.
- (b) Enforcement of railway rules and regulations including permitted uses of the railway.
- (c) Other provisions consistent with this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.72105a Adopt-a-trail program.

Sec. 72105a. (1) The department shall establish an “adopt-a-trail” program that will allow volunteer groups to assist in maintaining and enhancing Michigan trailways and rail-trails.

(2) Subject to subsection (3), volunteer groups in the adopt-a-trail program may adopt any available Michigan trailway or rail-trail or Michigan trailway or rail-trail segment and may choose any 1 or more of the following volunteer activities:

- (a) Spring cleanups.
- (b) Environmental activities.
- (c) Accessibility projects.
- (d) Special events.
- (e) Trailway maintenance and development.
- (f) Public information and assistance.
- (g) Training.

(3) The department shall designate the activities to be performed by a volunteer group in the adopt-a-trail program. The department may provide for more than 1 volunteer group to adopt a Michigan trailway or rail-trail or Michigan trailway or rail-trail segment.

(4) A volunteer group that wishes to participate in the adopt-a-trail program shall submit an application to the department on a form provided by the department. Additionally, volunteer groups shall agree to the following:

- (a) Volunteer groups shall participate in the program for at least a 2-year period.
- (b) Volunteer groups shall consist of at least 6 people who are 18 years of age or older, unless the volunteer group is a school or scout organization, in which case the volunteers may be under 18 years of age.
- (c) Volunteer groups shall contribute a total of at least 400 service hours over a 2-year period.
- (d) Volunteer groups shall comply with other reasonable requirements of the department.
- (5) A state park manager or a district forest manager may issue to volunteers who are actively working on adopt-a-trail projects that last more than 1 day free camping permits if campsites are available. A state park manager or a district forest manager may waive state park entry fees for volunteers entering state parks to work on adopt-a-trail projects.
- (6) While a volunteer is working on an adopt-a-trail project, the volunteer has the same immunity from civil liability as a department employee and shall be treated in the same manner as an employee under section 8 of 1964 PA 170, MCL 691.1408.
- (7) The department shall design and erect near the entrance of each Michigan trailway or rail-trail in the adopt-a-trail program or along the trailway an adopt-a-trail program sign with the name of the volunteer group's sponsoring organization listed for each volunteer group that has contributed at least 100 service hours by volunteers.

History: Add. 1997, Act 129, Imd. Eff. Nov. 5, 1997.

Popular name: Act 451

Popular name: NREPA

324.72106 Michigan trailway management council; establishment; purpose; adopting operating procedures and electing officers; powers; dissolution.

Sec. 72106. (1) Two or more governmental agencies may establish a Michigan trailway management council for the development and management of a Michigan trailway pursuant to the urban cooperation act of 1967, Act No. 7 of the Public Acts of the Extra Session of 1967, being section 124.501 to 124.512 of the Michigan Compiled Laws.

(2) Upon formation, a council shall adopt operating procedures and shall elect officers as the council considers appropriate.

(3) A council may do 1 or more of the following as authorized in an interlocal agreement entered into pursuant to Act No. 7 of the Public Acts of the Extra Session of 1967:

- (a) Operate and maintain that portion of 1 or more Michigan trailways that is owned or under the control of the governmental agencies establishing the council.
- (b) Pursuant to an agreement under section 72105, operate and maintain that portion of 1 or more Michigan trailways that is located on state owned land.
- (c) Coordinate the enforcement of trailway rules and regulations and other applicable laws and ordinances, including permitted uses of the trailway on trailways owned or under the control of the governmental agencies establishing the council or, pursuant to an agreement under section 72105, trailways that are located on state owned land.

(d) Receive any grant made from the fund or other funding related to that portion of a Michigan trailway within its jurisdiction.

(e) Acquire or hold real property for the purpose of operating a Michigan railway.

(f) Perform other functions consistent with this part.

(4) A council may be dissolved by the governmental agencies that participated in creating the council. However, if a council has entered into an agreement with the department under section 72105, the agreement shall specify how the council may be dissolved.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.72107 Closure during pesticide application.

Sec. 72107. In agricultural areas, a Michigan railway may be temporarily closed by the entity operating the railway to allow pesticide application on lands adjoining the railway. The entity operating the Michigan railway shall post the closure of the railway or arrange with a landowner or other person for the posting of signs and the closure of the railway during pesticide application and appropriate reentry periods.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.72108 Commission; powers.

Sec. 72108. (1) The commission may do any of the following:

(a) Grant easements or, pursuant to part 13, use permits or lease land owned by the state that is being used for a Michigan railway for a use that is compatible with the use of the Michigan railway.

(b) Enter into contracts for concessions along a state owned Michigan railway.

(c) Lease land adjacent to a state owned Michigan railway for the operation of concessions.

(2) If the commission approves of the acquisition of land by the department, the commission may state that the specified land is acquired for use as a Michigan railway. Following acquisition of land that the commission states is acquired for use as a Michigan railway, any revenue derived from that land pursuant to subsection (1), except as otherwise provided by law, shall be deposited into the fund.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 325, Imd. Eff. Sept. 10, 2004.

Popular name: Act 451

Popular name: NREPA

324.72109 Michigan railways fund.

Sec. 72109. (1) The Michigan railways fund is created within the state treasury.

(2) Except as otherwise provided by law, the state treasurer may receive money or other assets from any of the following for deposit into the fund:

(a) Fees collected from users of railways on state forest lands.

(b) Payments to the state for easements, use permits, leases, or other use of state owned Michigan railway property.

(c) Payments to the state for concessions operated by private vendors on state owned property located on or adjacent to a Michigan railway.

(d) Federal funds.

(e) Gifts or bequests.

(f) State appropriations.

(g) Money or assets from other sources as provided by law.

(3) The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(4) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(5) Money in the fund may be expended for any of the following purposes:

(a) The expenses of the department in operating and maintaining the Michigan railway system and enforcing Michigan railway rules and regulations.

(b) Grants to or contracts with councils or governmental agencies to operate and maintain segments of Michigan railways and to enforce Michigan railway rules and regulations.

(c) Funding Michigan railway construction and improvements.

(d) Acquisition of land or rights in land.

(e) Publications and promotions of the Michigan railways system.

(6) In determining the expenditure of money in the fund, the department shall consider all of the following:

- (a) The need for funding for each of the purposes listed in subsection (5).
- (b) The estimated cost of Michigan railway management for each governmental agency that manages a Michigan railway, based on previous costs, railway mileage, level of use, and other relevant factors.
- (c) The need of each governmental agency that manages a Michigan railway for financial assistance in managing that railway, and the amount of money from the fund received by that agency in the past.
- (d) The amount of revenue accruing to the fund that is generated from each Michigan railway.
- (e) Other factors considered appropriate by the department.
- (7) The department shall submit a report to the legislature on or before December 1 of each year describing the use of money appropriated from the fund in the previous fiscal year.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.72110 Michigan railways advisory council; creation; appointment and terms of members; vacancy; removal; meetings; quorum; conduct of business; writings; compensation and expenses; duties.

Sec. 72110. (1) The Michigan railways advisory council is created within the department of natural resources.

- (2) The advisory council shall consist of the following members appointed by the commission:
 - (a) One individual who is involved with the establishment or operation of a multiple use railway.
 - (b) Two individuals who represent Michigan railway user groups.
 - (c) One local government official from a governmental agency in which a multiple use railway is located.
 - (d) One member of the general public.
- (3) The members first appointed to the commission shall be appointed within 90 days after April 21, 1993.
- (4) Members of the advisory council shall serve for terms of 4 years, or until a successor is appointed, whichever is later, except that of the members first appointed, 2 shall serve for 1 year, 1 shall serve for 2 years, and 1 shall serve for 3 years.
- (5) If a vacancy occurs on the advisory council, the commission shall make an appointment for the unexpired term in the same manner as the original appointment.
- (6) The commission may remove a member of the advisory council for incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.
- (7) The first meeting of the advisory council shall be called by the commission. At the first meeting the advisory council shall elect from among its members a chairperson and other officers as it considers necessary or appropriate. After the first meeting, the advisory council shall meet at least annually or more frequently at the call of the chairperson or if requested by 3 or more members.
- (8) A majority of the members of the advisory council constitutes a quorum for the transaction of business at a meeting of the advisory council. A majority of the members present and serving is required for official action of the advisory council.
- (9) The business the advisory council may perform shall be conducted at a public meeting of the advisory council held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.
- (10) A writing prepared, owned, used, in possession of, or retained by the advisory council in the performance of an official function is subject to the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.
- (11) Members of the advisory council shall serve without compensation. However, members of the advisory council may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the advisory council.
- (12) The advisory council shall do both of the following:
 - (a) Make recommendations to the commission and the department on the expenditure of money in the fund.
 - (b) Advise the commission and the department on the implementation of this act and the establishment and operation of Michigan railways.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.72111 State agencies; duties.

Sec. 72111. All state agencies shall cooperate with the commission and the department in the implementation of this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.72112 Rules.

Sec. 72112. The commission may promulgate rules as it considers necessary to implement this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.72113 Michigan heritage water trail program.

Sec. 72113. (1) The Great Lakes center for maritime studies at western Michigan university, in conjunction with the department, the department of history, arts, and libraries, and the Michigan 4-H youth conservation council, shall develop a plan for a statewide recognition program to be known as the "Michigan heritage water trail program". This program shall be designed to do all of the following:

(a) Establish a method for designating significant water corridors in the state as Michigan heritage water trails.

(b) Provide recognition for the historical, cultural, recreational, and natural resource significance of Michigan heritage water trails.

(c) Establish methods for local units of government to participate in programs that complement the designation of Michigan heritage water trails.

(d) Assure that private property rights along Michigan heritage water trails are not disturbed or disrupted, or restricted by the state or local units of government.

(2) Within 1 year after the effective date of the amendatory act that added this section, the center for maritime studies at western Michigan university, in conjunction with the department, the department of history, arts, and libraries, and the Michigan 4-H youth conservation council, shall submit a copy of the plan developed under subsection (1) to the standing committees of the legislature with jurisdiction primarily pertaining to natural resources and the environment.

History: Add. 2002, Act 454, Imd. Eff. June 21, 2002.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries related to Michigan heritage water trail program to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

Popular name: Act 451

Popular name: NREPA